

**Illinois Department of Revenue
Regulations**

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| Title 86 Part 130 Section 130.2050 Sales and Gifts By Employers to Employees |
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TITLE 86: REVENUE

PART 130

RETAILERS' OCCUPATION TAX

Section 130.2050 Sales and Gifts By Employers to Employees

a) When Liable for Retailers' Occupation Tax

- 1) Where a manufacturer or other employer, who is engaged in a commercial enterprise, sells tangible personal property to his employees for use or consumption, such manufacturer or other employer is engaged in the business of selling tangible personal property at retail and incurs Retailers' Occupation Tax liability with respect to his gross receipts from such sales. It is immaterial that his receipts from such sales constitute only a small fraction of the manufacturer's or other employer's total receipts from his business, or that sales ordinarily are made at retail only to the employees of the manufacturer or other employer and not to the general public.
- 2) For example, where a manufacturer operates a restaurant or cafeteria at which he sells meals exclusively to his own employees, he must remit to the Department the Retailers' Occupation Tax measured by his gross receipts from these sales; or where a clock and watch manufacturer makes sales of clocks and watches to his employees for their use or consumption, he must remit to the Department the Retailers' Occupation Tax measured by his gross receipts from these sales.

b) When Not Liable for Retailers' Occupation Tax

- 1) Employers do not incur Retailers' Occupation Tax liability when they furnish tangible personal property to employees free of any charge whatsoever. For example, if employees of a restaurant, hotel or other place of business are granted the right to eat their meals free at such place of employment and are not charged anything for such meals, and are entitled to no additional compensation if they fail to eat their meals at such place of business, the furnishing of such free meals does not constitute a sale under the Retailers' Occupation Tax Act.
- 2) The mere fact that an employer shows on his books, for Social Security or other similar purposes, an amount which is construed under the Federal laws as "additional compensation" to employees, and which is then charged off the employer's books for meals or other tangible personal property transferred to such employees, is not sufficient, in and of itself, to establish that such transactions constitute sales within the meaning of the Retailers' Occupation Tax Act.

c) Liability For Use Tax on Gifts to Employees

If the employer gives the tangible personal property to the employee instead of selling it to him, such employer must pay Use Tax on the cost price of such tangible personal property to him. Where hotels, restaurants or other food vendors furnish free meals, as defined fully in Subsection (b) of this Section, to their employees, it will be presumed, in the absence of evidence establishing a lower figure, that the average cost of such meals

to such food vendor is 75¢ per meal, so this would be the tax base on which such food vendor should compute his Use Tax liability with respect to such meals.

(**Source:** Amended and effective January 1, 1977)